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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,695	03/24/2004	Ali Nilforushan	8048-002-US	4408
32301	7590	12/15/2005	EXAMINER	
CATALYST LAW GROUP, APC 9710 SCRANTON ROAD, SUITE S-170 SAN DIEGO, CA 92121			NGUYEN, SON T	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/807,695

Applicant(s)

NILFORUSHAN, ALI

Examiner

Son T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22, 25-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1,2,4-7,13,16,18,21,25,27,28** are rejected under 35 U.S.C. 102(b) as being anticipated by Tadauchi et al. (JP10113088A).

For claim 1, Tadauchi et al. teach an animal cover 1 comprising a body having an interior and exterior side; a plurality of cavities 22,23 strategically located within the body (as shown in fig. 1, the cavities 22,23 are located inside the harness); and a temperature altering device 21,24.

For claims 2 & 4, Tadauchi et al. teach the cavities are located in the neck area (see abstract "Problem to be solved").

For claims 5 & 7, Tadauchi et al. teach the temperature altering device being removably located within the cavities (the altering device is located in the cavity and the both can be disconnected from the VELCRO 32, thus, removably located).

For claim 6, Tadauchi et al. teach the temperature altering device being permanently located in the cavities (permanently by not removing the altering device and leaving it in the cavity whenever).

For claim 13, Tadauchi et al. teach wherein the cavities are adjustable about the body by disconnecting the cavities from the VELCRO 32.

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For claim 16, Tadauchi et al. teach a horse.

For claim 18, Tadauchi et al. teach a method for delivering a temperature altering regimen comprising the steps of altering the temperature of a temperature altering device 21,24 located within strategically located cavities 22,23 located about the body of an animal cover 1 having a temperature altering device 21,24 and being designed and fitted to deliver a temperature altering regimen to specific areas of an animal's body; placing the cover on the body of an animal; allowing a temperature altering regimen to run its course.

For claim 21, Tadauchi et al. teach adjusting and properly aligning the cover on the animal so as to allow the altering device to work properly.

For claim 25, Tadauchi et al. teach a horse.

For claim 27, Tadauchi et al. teach a horse cover for delivering a targeted temperature altering regimen 21,24 to a specific and defined location of a horse's body comprising a muscle, a muscle group, a joint, a skeletal structure or combinations thereof, wherein the specific and defined location of the horse's body is affected with a problem, the problem comprising aching, soreness, inflammation or swelling, the animal cover comprising: a body 1 of the cover; strategically located cavities 22,23 about the horse cover for delivering the targeted temperature altering regimen to the specific and defined location of the horse's body.

For claim 28, Tadauchi et al. teach wherein the cavities are strategically located at the specific and defined location of the horse's body by positioning and repositioning (by connecting/disconnecting the alter device from the VELCRO 32) the cavities to the

area currently affected with the problem, the horse cover being constructed such that the cavities contact and remain at the specific and defined location.

3. **Claims 1,2,4-8,10,12,16,18,20,21,25** are rejected under 35 U.S.C. 102(b) as being anticipated by Beeghly et al. (5537954).

For claim 1, Beeghly et al. teach an animal cover 10 comprising a body having an interior and exterior side; a plurality of cavities 14,21,22,20,34 strategically located within the body; and a temperature altering device 40.

For claims 2 & 4, Beeghly et al. teach the cavities are located in the area as shown in the figures.

For claims 5 & 7, Beeghly et al. teach the temperature altering device being removably located within the cavities (col. 5, lines 52-67).

For claim 6, Beeghly et al. teach the altering device being permanently located in the cavities in the event a user does not remove it from the cavities, then, it's there permanently.

For claim 8, Beeghly et al. teach the cavities form a sealable pocket by snaps 36.

For claim 10, Beeghly et al. teach the altering device is removed from the cover and is brought to a desired temperature by placing the altering device in a heated environment until the altering device reaches a desired temperature and can be returned to the cover and used to deliver a temperature altering regimen to an animal (col. 5, lines 52-68 and col. 6, lines 1-39).

For claim 12, Beeghly et al. teach the cavities further comprise a material on the exterior side of the body of the cover that will reflect the temperature emitted from the

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altering device towards the body of the animal for maximum efficiency of temperature transfer (col. 5, lines 35-42).

For claim 16, Beeghly et al. teach the animal being a dog.

For claim 18, Beeghly et al. teach a method for delivering a temperature altering regimen comprising the steps of altering the temperature of a temperature altering device 40 located within strategically located cavities 14 located about the body of an animal cover 10 having a temperature altering device 40 and being designed and fitted to deliver a temperature altering regimen to specific areas of an animal's body; placing the cover on the body of an animal; allowing a temperature altering regimen to run its course.

For claim 20, Beeghly et al. teach removing the altering device 40 from the cover, placing the altering device in a heating environment (col. 6, lines 1-39), allowing the altering device to reach a desired temperature (col. 6, lines 1-39), and replacing the altering device into the cover (col. 6, lines 1-39).

For claim 21, Beeghly et al. teach adjusting and properly aligning the cover on the animal so as to allow the altering device to work properly.

For claim 25, Beeghly et al. teach the animal being a dog.

4. **Claims 1-7,16-18,21,25-27** are rejected under 35 U.S.C. 102(b) as being anticipated by DE 20021260U1 (herein DE260).

For claim 1, DE260 teaches an animal cover 1 comprising a body having an interior and exterior side; a plurality of cavities 2 strategically located within the body; and a temperature altering device (the heat pad discussed in the Abstract).

For claims 2-4, DE260 teaches the cavities are located in the area as shown in the figures.

For claims 5 & 7, DE260 teaches the temperature altering device being removably located within the cavities (see Abstract).

For claim 6, DE260 teaches the altering device being permanently located in the cavities in the event a user does not remove it from the cavities, then, it's there permanently.

For claim 16, DE260 teaches the animal being a horse.

For claim 17, DE260 teaches the cover being a horse blanket 1 and the animal being a horse.

For claim 18, DE260 teaches a method for delivering a temperature altering regimen (heat pad) comprising the steps of altering the temperature of a temperature altering device (heat pad) located within strategically located cavities located about the body of an animal cover 1 having a temperature altering device (heat pad) and being designed and fitted to deliver a temperature altering regimen to specific areas of an animal's body; placing the cover on the body of an animal; allowing a temperature altering regimen to run its course.

For claim 21, DE260 teaches adjusting and properly aligning the cover on the animal so as to allow the altering device to work properly.

For claim 25, DE260 teaches the animal being a horse.

For claim 26, DE260 teaches the cover being a horse blanket 1 and the animal being a horse.

For claim 27, DE260 teaches a horse cover for delivering a targeted temperature altering regimen to a specific and defined location of a horse's body comprising a muscle, a muscle group, a joint, a skeletal structure or combinations thereof, wherein the specific and defined location of the horse's body is affected with a problem, the problem comprising aching, soreness, inflammation or swelling, the animal cover comprising: a body 1 of the cover; strategically located cavities 2 about the horse cover for delivering the targeted temperature altering regimen to the specific and defined location of the horse's body.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 9,19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Beeghly et al. (as above).

For claims 9 & 19, Beeghly et al. teach the altering device being placed in the microwave (col. 6, lines 1-15). However, Beeghly et al. are silent about placing the entire cover in a refrigerated or heated environment. It would have been obvious to one having ordinary skill in the art at the time the invention was made to place the entire cover of Beeghly et al. in the heated environment, depending on the user's preference to do so if he/she does not wish to remove the altering device from the pocket.

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7. **Claim 11** is rejected under 35 U.S.C. 103(a) as being unpatentable over Beeghly et al. (as above) in view of Llamas (5361563).

Beeghly et al. are silent about the cover being made of a material that wick moisture. Llamas teaches an animal cover made out of a material that wick moisture. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the cover of Beeghly et al. out of a wick material to wick moisture as taught by Llamas, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice.

Allowable Subject Matter

8. **Claims 14,15,22** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed 10/3/05 have been fully considered but they are not persuasive.

In addition to the already addressed arguments in the final rejection, which were repeated in the arguments filed 10/3/05, Applicant repeated argue the feature of strategically locating the cavities and temperature altering device.

Strategically locating merely means to put the temperature altering device where the animal needs it, which is all inherent in Beeghly, DE260 and Tadauchi. The intention for using the temperature altering device is to relieve where needed so one

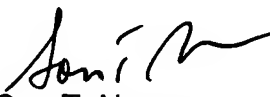
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has to know where it appears that the animal is aching which is consider strategically locating. When one uses these devices of the prior arts, one has to think or plan where to put the device and not just put it anywhere that is not necessary. That is strategically locating which is inherently taught in these references. Beeghly strategically puts the cavities on the back and rib areas of the dog as shown. When he puts these cavities, he didn't just put them there for no reason. He has to analyze what area of the dog's body is aching and he probably found that mostly the back and the rib areas are where the dog is aching mostly, so he has to perform some strategic planning to put those cavities there. Same with DE260 and Tadauchi, they don't just put the temperature altering devices and cavities wherever, they have to know in their minds where the animal is hurting the most and then strategically plan to locate the devices where they need to be to ease the animal's pain.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Son T. Nguyen
Primary Examiner
Art Unit 3643

stn